United Nations A/53/818

General Assembly

Distr.: General
4 February 1999

Original: English

Fifty-third session
Agenda item 112
Review of the efficiency of the administration and financial functioning of the United Nations

Outsourcing practices

Report of the Secretary-General

Summary

The present report on United Nations outsourcing practices is submitted to the General Assembly pursuant to its resolution 52/226 B of 27 April 1998. It sets forth the basic policy and guidelines to be followed in considering the use of outsourcing, having taken fully into account the report of the Joint Inspection Unit (A/52/338, annex) entitled "The challenge of outsourcing for the United Nations system" and the report of the Office of Internal Oversight Services (A/52/813, annex) on the review of the implementation of procurement reform.

The present report commits the United Nations to viewing outsourcing as one of the required options, among many, that programme managers should consider in seeking to provide or upgrade the quality or cost-effectiveness of the Organization's non-core activities and services. The report does not mandate that specific non-core activities and services be outsourced — only that outsourcing be considered in a meaningful manner as part of the Organization's regular management decision-making process. It also establishes the policy and guidelines to be followed in considering the use of outsourcing.

99-03024 (E) 240299

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I. Introduction

1. The present report, which sets forth the basic policy and guidelines to be followed in considering the use of outsourcing, is submitted to the General Assembly pursuant to its resolution 52/226 B of 27 April 1998. It has fully taken into account the reports of the Joint Inspection Unit (JIU), "The challenge of outsourcing for the United Nations system" (A/52/338, annex), and of the Office of Internal Oversight Services on the review of the implementation of procurement reform (A/52/813, annex).

2. The report sets forth the basic principles to be followed in considering the use of outsourcing by the United Nations. It covers contractual arrangements under which outside suppliers are responsible for providing non-core activities or services which have been or could be provided by United Nations staff. It does not cover relationships with individual consultants, labour contracts or one-time assignments given to outside firms.

3. It commits the United Nations to viewing outsourcing as one of the required options, among many, that programme managers should consider in seeking to provide or upgrade the quality or cost-effectiveness of the Organization's non-core activities and services. It does not mandate that specific non-core activities and services be outsourced — only that outsourcing be considered in a meaningful manner as part of the Organization's regular management decision-making process. It also establishes the policy and guidelines to be followed in considering the use of outsourcing. The Secretary-General is fully committed to the active consideration of using outsourcing, where appropriate, and believes that the recommendations of the General Assembly, the Advisory Committee on Administrative and Budgetary Questions (ACABQ), JIU and the Office of Internal Oversight Services have contributed significantly to the development and establishment of the United Nations outsourcing practices.

II. Policy

A. Purpose and scope

4. There are four basic reasons for outsourcing:

(a) To acquire technical skills not readily available within the Organization, including accessing state-of-the-art technologies and expertise or acquiring needed flexibility to meet quickly changing circumstances;

(b) To achieve cost savings;

(c) To provide a source more effectively, efficiently or expeditiously;

(d) To provide an activity or service not needed on a long-term basis.

5. The United Nations outsourcing policy is designed to ensure consideration of outsourcing as part of the Organization's regular management decision-making process. It is also designed to ensure that outsourcing decisions are based on transparent procedures, proper analysis, appropriate consultation between the department or office responsible for the delivery of the activities or services and the Department of Management (the Procurement Division, in particular, for the procurement aspects of the decision-making process), and with due regard for the needs and interests of United Nations staff members. Towards those ends, the policy emphasizes the need for a good working definition of "outsourcing" and, concomitantly, clear criteria and rigorous analysis of the costs, benefits, risks and rewards to be obtained from outsourcing.

6. The United Nations outsourcing policy has five key features:

(a) It is limited to the provision of non-core support-type activities or services;

(b) It provides explicit criteria for determining when an activity or service should be considered for outsourcing;

(c) It mandates a rigorous pre-bid process for undertaking the necessary quantitative and qualitative analyses before making an outsourcing decision;

(d) It calls for the strengthening of the procurement process itself in obtaining an outsourced activity or service;

(e) It requires vigorous contract administration, including monitoring vendor performance and contractor evaluations.

7. United Nations outsourcing practices currently limit outsourcing to the provision of non-core support-type activities and services. Typical activities and services are enumerated in paragraph 8. Since outsourcing involves vesting at least some degree of responsibility for conducting the United Nations activities in individuals who have no direct loyalty or accountability to the Organization, outsourcing strategic functions — e.g., core services — is problematic and requires further study. This is especially true where, as here, the Organization is an international, intergovernmental entity whose character and outlook are largely dependent on the international civil servants who comprise its staff. Thus, as noted in the JIU report, "Using

core activities and services as the criterion for determining what can and cannot be outsourced has an inherent logic."[1]

B. Principles

1. Definition

8. Outsourcing is contracting with a third party to provide non-core activities and services (including, where applicable, related goods), which activities and services have been or could be provided by United Nations staff. For purposes of this report, non-core activities and services refer to support-type activities and services such as — but not limited to — accounting; auditing (internal); archives; book shop/gift shop; building maintenance; cleaning services; food services/catering; ground/garden maintenance; interpretation; information systems/information technology; mail/pouch; medical services; printing/publishing; recruitment; security; staff counselling/outplacement; training; translation; travel service; transportation; warehousing; and other, similar tasks. Outsourcing clearly does not include the simple procurement of goods. It also excludes the replacement or supplementation, for general purposes, of staff by non-regular staff (e.g., short-term, temporary or freelance staff). Finally, it does not cover contractual relations with individual consultants, labour contracts or one-time service assignments given to corporate or institutional contractors. However, it deserves emphasis that, as defined in this report, the establishment and provision of common services among the various United Nations funds, programmes and agencies would constitute a form of outsourcing.[2]

2. Clear objectives

9. The process leading to an outsourcing decision must be based on clearly articulated objectives. It should seek to achieve one or more of the four goals listed in paragraph 4 above.

10. Identifying and defining with particularity the purpose, or purposes, for which outsourcing is being considered is essential to the decision-making process. Moreover, without this crucial information, it is impossible to determine, ultimately, the extent to which the outsourcing goal has been achieved.

3. Awareness of options

11. The two extremes on the spectrum of sourcing options are: use of United Nations staff, on the one hand, and use of an external vendor, on the other. During the outsourcing process, programme managers must examine all sourcing alternatives, including partial outsourcing, rather than merely limiting themselves to one or the other of the two extremes. Moreover, as indicated above, in the United Nations system, consideration should also be given to coordinating outsourcing activities among the various United Nations funds, programmes and agencies so as to provide the possibility of sharing common services or taking advantage of excess capacity that one organization may have to offer others on a cost recovery or fee basis.

4. Rigorous analysis

12. In many cases, a decision based solely on a cost-benefit analysis will find outsourcing to be more economically advantageous to the United Nations than having the activity or service performed by United Nations staff. However, a cost-benefit analysis alone is insufficient. Rigorous analysis must include a thorough risk assessment, including a review of the impact the outsourcing might have on United Nations staff.

13. At least three significant goals must be considered with regard to the use of outsourcing by the United Nations: to respect the international character of the Organization; to avoid possible negative impact on staff; and to ensure appropriate management and/or control over the activities or services that have been outsourced. Before a decision in favour of outsourcing can be finalized, these goals, and others, as applicable, must be carefully analysed and appropriately addressed. The Organization is firmly committed to providing fair treatment on as wide a geographical basis as possible to all participants involved in United Nations procurement activities, including outsourcing.

5. Competitive bidding

14. In addition to the guidelines set forth in this report, the United Nations financial regulations and rules and other standard procurement practices must be strictly adhered to in respect of outsourcing, as with any other United Nations procurement exercise. In particular, the United Nations requirement of competitive bidding must be scrupulously met in connection with the outsourcing of activities or services.

6. Transparency and consultation

15. The process leading to an outsourcing decision must be clear and must follow a series of logical steps which are

known to staff and allow for adequate consultation, thorough analysis, and appropriate checks and balances.

7. Accountability

16. Responsibility and accountability rest with the responsible programme manager for taking the outsourcing decision in the first place and for the ultimate quality and cost of the outsourced activity or service. This includes contract management, periodic surveys to assess service quality, and close and continuing monitoring of performance and the overall cost to the Organization, which must be sure to retain sufficient in-house professional expertise adequately to monitor and control the implementation of the outsourced contract. In addition, at appropriate, periodic intervals and at the completion of an outsourced contract, it is essential that the programme manager provide the Procurement Division with a thorough evaluation of the vendor's performance and any "lessons learned", including the extent to which the original outsourcing goals were attained, and if not, why not. This information will be included in the United Nations supplier roster and will be shared as part of the United Nations Common Supplier Database.

8. Periodic reassessment

17. Finally, all outsourcing contracts and performance under them must be carefully reviewed prior to re-bidding or renewing a contractual arrangement in order to ensure the continued appropriateness of the original approach.

III. Guidelines

18. The following guidelines elaborate on the United Nations outsourcing policy. They are designed to ensure a transparent, unbiased procedure for avoiding the disadvantages of ad hoc and inconsistent approaches, thereby reducing the potential risks inherent in outsourcing and maximizing benefits to the Organization. The establishment and implementation of these guidelines, along with adherence to the five key features of the United Nations policy on outsourcing (para. 6 above), should help to ensure the success of the Organization's outsourcing initiatives.

19. The primary responsibility for considering the possible use of outsourcing rests with the programme manager who is functionally responsible for delivering the activity or service in the first instance. The key point to remember in this regard is not whether any particular activity or service should be outsourced but rather that active consideration must be given to outsourcing as a potentially beneficial option in performing certain activities or services for the Organization. The process is to be guided by the United Nations outsourcing policy, as supplemented by the present guidelines.

20. The United Nations outsourcing strategy comprises four major stages: the pre-bid process; the bid process; the contract administration phase; and the evaluation phase. Successful outsourcing depends significantly on the Organization's implementing these four stages effectively.

A. Pre-bid process

1. Defining the service

21. During the pre-bid process, the first task for the requisitioning department or office concerned is to identify the activity or service to be considered for outsourcing. When this has been accomplished, an outsourcing team should be established, headed by the programme manager from the department or office that is responsible for the activity or service in question. The team should include, as a minimum, representatives from the Procurement Division, the Office of Human Resources Management and the Office of Legal Affairs, plus the outsourcing facilitator (as defined in para. 42 below). At this stage, it is essential that the bid specifications prepared for the proposed outsourced activity or service are completely clear and detailed and include performance standards.

2. Preliminary cost estimates

22. Next, a market survey should be undertaken, at least in general terms, so that preliminary cost estimates can be developed. The aim at this stage is to establish a cost range in broad terms for the outsourcing options under consideration. This may be based on discussions with vendors, benchmarkers or outside expert consultants. The cost range, which should also include estimates of the transition costs (including redundancies), will often be the major factor in deciding whether a further investment of time or resources in an outsourcing review is justified. Successful outsourcing depends on the market's ability to perform the required activity or service for the United Nations at least as cost effectively as the United Nations has been doing it on its own. This means that the outsourcing team must verify that the United Nations needs are closely aligned with activities and services that the market typically offers and that there is an adequate range of vendors that can offer suitable activities and services of the type required. If these

requirements are not met, it may be hard to generate vendor interest and, hence, cost savings.

3. Vendor list

23. Assuming the market for the activities or services being sought is considered mature enough to consider for outsourcing, the question then becomes one of identifying an appropriate and adequate list of vendors. If the number of potential vendors on the United Nations supplier roster is deemed insufficient to carry out a meaningfully competitive procurement exercise, it may be necessary to advertise the proposed procurement and to seek indications of interest publicly. Depending on the size and complexity of the activities or services involved, the process of vendor selection, including pre-qualification, may benefit from — or even require — the use of an outside expert consultant. The ultimate goal is to generate a sufficient short list of qualified and interested vendors from as wide a geographical base as possible to whom a "request for proposal" may ultimately be submitted.

4. Assessment of quality criteria

24. In addition to assessing pre-bid sourcing options on the basis of cost, quality criteria must be considered. The criteria for quality must be defined unambiguously and applied carefully to each sourcing option.

25. The programme manager concerned is primarily responsible for defining quality, since, in effect, it establishes the requisitioner's need(s). As a minimum, the following quality criteria should be considered:

(a) Capability of the vendor in meeting the requisitioner's substantive need(s). This is a straightforward matter of defining clearly the requisitioner's need(s) and assessing how well it matches the vendor's strengths;

(b) Responsiveness of the vendor to the requisitioner's need(s). The motivation of internal staff often differs from that of vendors, resulting potentially in very different kinds of responsiveness. For work that is not clearly and specifically within the scope of their contract, external vendors will invariably charge extra. Inasmuch as such work is, or may be argued to be, beyond what was negotiated and agreed to, it is effectively free of competition. As a result, the Organization may be forced to pay a very high unit price for any such additional work requested;

(c) Reliability. Reliability has different meanings, depending on the activity or service concerned. However, whatever the relevant definition of reliability may be, it must represent a performance standard satisfactory to the requisitioner and one for which it would be willing to pay;

(d) Adequacy of scope of service offered. In many situations, the contract will be a compromise between the entire gamut of activities and services the requisitioner has traditionally received from in-house providers and what the United Nations is currently willing to purchase from the external supplier. In some cases, the supplier may even be ill-equipped to handle the marginal activities or services requested by the United Nations, regardless of cost. Accordingly, for outsourcing to be satisfactory to the requisitioner, it may be necessary to consider a residual in-house capability to meet the subsidiary needs (or use that as an opportunity to eliminate such marginal activities or services altogether);

(e) Flexibility. It is important to consider the degree of flexibility each sourcing option has to respond to changing patterns of demand driven by changing requirements of the Organization. Under what conditions is this more or less important? Can it be built into the contract in ways that do not leave the United Nations at the mercy of a profit-motivated vendor when contract variances are sought? To deal with these concerns, the right to terminate for convenience, in addition to the right to terminate for cause, should be included, wherever possible, in all outsourced contracts;

(f) Special expertise. It is also important to consider whether special knowledge or understanding of the United Nations is required in order for the activity or service to be satisfactorily performed. Where such special knowledge or understanding is required, a decision must be made as to whether the Organization can afford, in time and money, to train the supplier suitably.

5. Assessment of risk criteria

26. There are inherent risks that outsourcing will fail to serve the best interests of an organization. One risk which is particularly pertinent to the United Nations is that outsourcing may be seen as a threat to the international character of the Organization by displacing the role of the international civil servant in formulating and effecting the activities of the Organization and/or by distorting, in favour of host countries, the intended geographical sharing of procurement opportunities. A second risk is that outsourcing may have an adverse impact on the staff, whether through actual loss of jobs, undermining anticipated career development plans or, more generally, through demoralization and demotivation. In the latter regard, it should be emphasized that the Secretary-General is

committed to avoiding, to the maximum extent practicable, any adverse impact on staff and, further, to ensuring that appropriate protection is accorded to those who are adversely affected by outsourcing when it is unavoidable.

27. In addition to these two Organization-specific risks, there are several more generalized risks which must be considered in reaching an appropriate outsourcing decision. One is making the wrong choice of activity or service to outsource; another is making the wrong outsourcing arrangement. Commonly, these translate into poor service: the vendor fails to deliver what the requisitioner needs; the vendor is insufficiently responsive to the requisitioner's demands; or the vendor lacks reliability. Costs can be deceptive, and a poorly designed contractual relationship between the United Nations and a vendor may result in significant financial losses. In faulty or inadequately specified outsourcing contracts, contract variations and additions can mount spectacularly, resulting in costs entirely out of proportion with projections. These are risks that can and should be managed at the design and contractual level, with proper business and legal advice and guidance.

28. Another general risk is that, although a vendor may be a good servant, in the context of outsourcing, he or she may be a bad master. Accordingly, and as emphasized above, the need for the United Nations to exercise strong and able contract management and control is imperative. Without such management and control, not only will the vendor have decision-making autonomy that could be damaging to the United Nations but senior management will likely be drawn into the remedial process, distracting them from their prime strategic objectives. The possibilities for problems of this kind should not be underestimated.

29. Another risk is the loss of institutional memory, if long-term staff are replaced by a vendor's staff, with different loyalties. In addition, there is also the risk that work and performance will suffer, with the possibility of deteriorating staff morale and mistrust, as new outsourcing options are continually being considered.

30. A further aspect of the United Nations vulnerability stemming from an outsourced activity or service is the vendor's negotiating leverage, which clearly increases as he or she gains experience in managing the United Nations functions. This is especially true if the vendor makes or is permitted to make significant changes in the underlying processes used to deliver the activities or services concerned. The vendor's leverage reveals itself most often in the way the vendor is able to charge premium prices for change orders for work done outside the normal scope of the contract or at the time of contract renewal.

31. The United Nations enjoys a number of privileges and immunities, including immunity from taxation and immunity for staff members from legal process in connection with their official acts. There are no assurances that such immunities can be extended to outsourced activities or services, and thus, a new level of risk may, in some areas, be incurred. This must be examined by the Office of Legal Affairs, on a case-by-case basis, and any increased costs resulting from it must be included in the costs of the outsourced arrangement. For example, the Organization might be subject to outside counsel fees for legal actions that would be avoided if the United Nations privileges and immunities were applicable.

32. Outsourcing entails several other potential risks which should also be identified and considered. Two rather self-explanatory ones come readily to mind: confidentiality risk; and the risk of reversibility (or irreversibility) of a previous outsourcing decision.

33. Although certain outsourcing risks may be perceived as inherently unacceptable, in most cases, risks can be brought within acceptable limits by ensuring that very well prepared bid specifications and performance standards have been included in the outsourced contract and that vigorous and diligent monitoring is effected by management, as outlined more fully below.

B. Bid process

34. At the completion of the pre-bid process, the outsourcing team must issue its written recommendation to the head of the department or office concerned as to whether the subject activity or service should, in fact, be outsourced. The recommendation must contain detailed reasons for the outsourcing decision. In addition, the outsourcing team should provide a copy of its recommendation to the Staff Union which must be afforded the right to submit its comments on the proposal directly to the head of the department or office concerned, particularly as they relate to any potential adverse impact that a proposed outsourcing might have on United Nations staff. If the recommendation of the outsourcing team is approved by the head of the department or office concerned, after taking special account of the Organization-specific risks discussed in paragraph 26 above, then the outsourcing team and the Staff Union will be so informed.

35. Upon approval of a recommendation in favour of outsourcing, the bid process should proceed in accordance with the relevant United Nations financial regulations and rules and standard procurement practices and procedures,

just as it would in connection with other proposed procurements.

36. Of particular concern in the bid process is the role of the formal contract in minimizing the inherent risks described above. Indeed, while some risks may be intrinsic to the outsourcing process per se, most of the other risks can be mitigated and even eliminated through the design and terms of the outsourced contract and how it is ultimately managed. The requisitioning department or office, in consultation with the Office of Legal Affairs, the Procurement Division, and, if necessary, an outside expert consultant, must develop a clear and detailed statement of work, performance standards, and a quality assurance plan. It is also critical that programme managers establish at the outset and as part of the outsourced contract, appropriate and agreed upon criteria for evaluating a vendor's performance. These elements are vital parts of a successful outsourcing contract.

37. The design of the contract is crucial. Outsourcing contracts are much more than specifications of obligations with associated remedies for misperformance or non-performance. They represent the distillation of the experience which the Organization has gained over time in connection with the particular activity or service. Outsourcing contracts are clearly not generic, and the United Nations does not have the luxury of learning by its mistakes. Outsourcing contracts should be drafted with the full advice and involvement of the Office of Legal Affairs. However, if in-house lawyers lack the requisite legal and outsourcing expertise relative to a specific substantive field, then outside counsel might be retained. In addition, in appropriate cases, it may also be necessary to consult with the Office of Internal Oversight Services in connection with the preparation of the contract, especially concerning accounting and auditing terms and conditions.

C. Contract administration phase

38. The primary responsibility for contract administration rests with the requisitioning department or office concerned. This involves periodic, ongoing contract monitoring. Without diligent contract monitoring, particularly of vendor performance and invoicing, the primary rationales for outsourcing — quality performance and cost savings — can easily be lost.

39. The monitoring process should consist of:

(a) The right to perform evaluations not only at set intervals during the term of the contract but also at any time and from time to time at the discretion of the United Nations;

(b) The right to update performance standards;

(c) The right to compel the vendor to take corrective action to remedy deficient work and the right to prohibit inadequate, inappropriate or improper work;

(d) The right to impose, in addition to other remedies, liquidated damages for the vendor's failure to meet performance expectations, including the timeliness of such performance. The inclusion of liquidated damages is particularly appropriate for outsourced contracts.

40. In connection with its responsibility for contract monitoring, programme managers should designate responsible officials to evaluate and assess the vendor's work and to provide, periodically, written reports on their findings. Under no circumstances may the programme manager or the officials so designated by him or her rely on the contractor's own performance data. To the contrary, independent verification is absolutely mandatory.

D. Evaluation phase

41. At the completion of an outsourced contract — as with all United Nations procurements generally — the requisitioning department or office concerned is required to complete a contractor's evaluation form and to furnish it to the Procurement Division for inclusion in the United Nations supplier roster and the United Nations Common Supplier Database. Specifically, the contractor evaluation form for outsourced contracts should include the following additional information:

(a) Whether the quality performance and cost-savings expectations were met and, if not, why not;

(b) A comparison of the advantages and the disadvantages of outsourcing the activity or service in question;

(c) An analysis of the problems, if any, encountered during the term of the outsourced contract;

(d) A recommendation from the programme manager as to whether the activity or service should continue to be outsourced and, if so, his or her suggestions, if any, for improving the outsourcing practice involved.

IV. Miscellaneous matters

42. In its report, the Office of Internal Oversight Services recommended that a focal point should be designated within the Department of Management who would be responsible for identifying potential new areas for outsourcing; providing methodological support for undertaking the cost, quality and risk criteria assessments necessary to determine whether the proposed activity or service is appropriate for outsourcing; and providing general expertise, both technical and contractual, on the best practices in structuring and administering outsourced contracts.[3] In similar fashion, the Joint Inspection Unit recommended the appointment of a facilitator who, it suggests, should be a senior official with responsibility explicitly for overseeing and assisting in the use of outsourcing.[4] The Secretary-General agrees that efforts should now be undertaken to identify such an outsourcing facilitator within the Department of Management.

43. Finally, it deserves mention that although the United Nations has a long-standing practice of using outsourcing for a variety of non-core activities and services, the Organization may not be well prepared or well equipped at this time to take on the added responsibility of managing a much larger number of outsourced contracts. Thus, it is appropriate to adopt an incremental approach to outsourcing, by continuing to concentrate on non-core support-type activities and services and, then, only those that may be most easily performed by an outside supplier. As the Organization's experience and confidence with outsourcing grow, consideration may then be given to increasing the potential field of outsourced activities and services — perhaps even, in time, to non-core substantive activities and services. But, this decision is best left to a later date.

V. Conclusion

44. The Secretary-General has committed the United Nations to viewing outsourcing as one of the required managerial decisions that programme managers should consider in seeking to provide or update the quality or cost-effectiveness of the Organization's non-core activities and services. The outsourcing policy and guidelines set forth above will make a meaningful contribution to that commitment.

Notes

[1] A/52/338, annex, para. 37.

[2] In this connection, it should be noted that the Secretary-General, as part of his reform initiatives, has entrusted an Executive Coordinator for Common Services with the task of reviewing the existing practices and recommending appropriate actions in 11 service areas: financial services, personnel services, legal services, travel and transportation, security and safety, information technology, the integrated management information system, procurement, archives and records management, and printing and facilities management.

[3] A/51/804, annex, recommendation 13.

[4] A/52/338, annex, paras. 97–100 and recommendation 3.